

STATE OF VERMONT  
PUBLIC SERVICE BOARD

Docket No. 7615

Application of New Cingular Wireless PCS, LLC d/b/a )  
AT&T Mobility, for authority, pursuant to )  
30 V.S.A. § 248a, to upgrade wireless communications )  
facilities on and at existing communications towers in )  
Brattleboro, Essex, Moretown, Sharon, South )  
Burlington, Springfield, Stowe, Williston and Putney, )  
Vermont, as part of its Universal Mobile )  
Telecommunications Service upgrade )

Order entered: 5/28/2010

**I. INTRODUCTION**

In this Order, the Vermont Public Service Board ("Board") approves the petition filed by New Cingular Wireless PCS, LLC, d/b/a AT&T Mobility ("AT&T" or the "Petitioner"), pursuant to 30 V.S.A. § 248a, and the Board's Order implementing standards and procedures under this section ("Procedures Order"),<sup>1</sup> and grants the Petitioner a certificate of public good ("CPG") authorizing the installation of communications facilities located in the Towns of Brattleboro, Essex, Moretown, Sharon, South Burlington, Springfield, Stowe, Williston and Putney, Vermont, as part of Petitioner's Universal Mobile Telecommunications Service upgrade (the "Project").

**II. BACKGROUND**

This case involves a petition and prefiled testimony filed by the Petitioner on April 8, 2010,<sup>2</sup> requesting that the Board issue a CPG, pursuant to 30 V.S.A. § 248a, authorizing the construction of the facilities identified above.

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1. *Order implementing standards and procedures for issuance of a certificate of public good for communications facilities pursuant to 30 V.S.A. § 248a*; Order issued August 14, 2009 ("Procedures Order").

2. AT&T submitted the petition to the Board on April 2, 2010. However, both 30 V.S.A. § 248a(e) and the Procedures Order require petitioners to provide specified individuals and entities with at least 45 days' advance notice prior to filing an application. In this case, it appears Petitioner submitted the last of the required notices on February 22, 2010. *See* Petitioner Certification of Prefiling Requirements at 3. Accordingly, Petitioner should not have filed its application for the locations associated with the February 22, 2010, notices prior to April 8, 2010. Therefore, the Board deems the filing date of AT&T's application to be April 8, 2010.

No comments or requests for hearing regarding the Project have been filed with the Board.

The Board has determined that the petition and prefiled testimony have effectively addressed the issues raised with respect to the applicable substantive criteria of 30 V.S.A. § 248a. Consequently, we find that the procedure authorized by § 248a is sufficient to satisfy the public interest, and no hearings are required.

### **III. FINDINGS**

1. The Project is part of AT&T's Universal Mobile Telecommunications Service ("UMTS") upgrade that involves the installation of facilities necessary to bring third-generation mobile broadband service ("3G") to Vermont. Donovan pf. at 1-2.

2. In 2008, AT&T acquired from Rural Newco, LLC, d/b/a Verizon Wireless, all of the wireless communications facilities comprising the Vermont network previously installed and maintained by RCC Atlantic, Inc., d/b/a UniceL ("RCC"). The former RCC network in Vermont employed the same GSM technology that AT&T uses to provide wireless service. However, none of the former RCC sites were enabled for UMTS, so in the absence of antenna and equipment changes, they cannot be used to create a 3G network. Donovan pf. at 2-3.

3. Deployment of the new facilities will allow continued use of GSM handsets by AT&T customers, as well as significantly higher data transmission speeds, including for video transmission, as a result of the UMTS upgrade. Donovan pf. at 3-4.

4. The Project facilities are proposed to be located at the following sites: (1) Brattleboro, Site No. VT6423, 48 Lawrence Street, Brattleboro, Vermont, Parcel ID No. 32-51-18; (2) Essex, Site No. VT6449, 50 Brigham Street, Essex, Vermont, Tax Map/Parcel ID No. 2014013100; (3) Moretown, Site No. VT6429, 1233 Cobb Hill Road, Moretown, Vermont, Tax Map ID No. 1-01-38; (4) Sharon, Site No. VT6407, 800 Baxter Mountain Road, Sharon, Vermont, Tax Map/Parcel ID No. R17031R; (5) South Burlington, Site No. VT6459, 2026 Williston Road, South Burlington, Vermont, Tax Map/Parcel ID No. 1810-02026; (6) South Burlington, Site No. VT6451, 344 Dorset Street, South Burlington, Vermont, Tax Map/Parcel ID No. 570-344C; (7) Springfield, Site No. VT6401, 3226 Skitchewaug Trail Road, Springfield, Vermont, Parcel ID

No. 07-03-29; (8) Stowe, Site No. VT6476, Mount Mansfield, Stowe, Vermont, Map 13, Lot 2; (9) Williston, Site No. VT6457, 2777 Saint George Road, Williston, Vermont, Tax Map/Block/Lot 13:103:20; and (10) Putney, Site No. VT6424, 454 Holland Hill, Putney, Vermont, Tax Map/Parcel ID No. 06-02-17. Donovan pf. at 6; Joint Panel pf. at 3-4.

5. The Project facilities involve antenna co-locations on existing towers, and in the case of the Dorset Street site in South Burlington, on a rooftop, as well as the installation of associated equipment in existing equipment shelters or rooms. None of these structures are owned by AT&T. The proposed Project will not increase the height of any of the existing structures, nor will it increase their width by more than twenty feet, and will involve only temporary earth disturbance associated with Project installation at the existing sites. Some of the towers and associated equipment have been in existence for over ten years. Donovan pf. at 6; Joint Panel pf. at 4-5, 14.

6. With the exception of the Dorset Street site, each of the Project facilities will involve the replacement of either three or four existing panel antennas with six new panel or dual-band antennas of varied sizes at specific heights on existing telecommunications towers. At the Dorset Street site, two 30" high cylindrical antenna canisters will house three panel antennas each and will replace three panel antennas on the roof of an existing building. The Project also involves the modification or addition of antenna operating equipment in the existing communications sheds located at each of the sites. Joint Panel pf. at 5-12.

7. The existing structures are capable of accommodating the new facilities provided the recommendations specified in structural reports developed for each site are followed. Joint Panel pf. at 16-17.

8. The Project will not have an undue adverse impact on the scenic or natural beauty of the area, aesthetics, historic sites or rare and irreplaceable natural areas. This finding is supported by findings 10 and 11, below.

9. The proposed co-location of facilities will not have an undue adverse effect on aesthetics when viewed in the overall context of the existing telecommunications tower and equipment located at each site. Joint Panel pf. at 19; exhs. Applicant JP-3 through Applicant JP-12.

10. There are no rare or irreplaceable natural areas or historic sites within the vicinity of the existing telecommunications tower sites where the Project will be located. Joint Panel pf. at 19-21.

#### **IV. DISCUSSION & CONCLUSION**

Pursuant to 30 V.S.A. § 248a(a):

Notwithstanding any other provision of law, if the applicant seeks approval for the construction or installation of telecommunications facilities that are to be interconnected with other telecommunications facilities proposed or already in existence, the applicant may obtain a certificate of public good issued by the public service board under this section, which the board may grant if it finds that the facilities will promote the general good of the state consistent with subsection 202c(b) of this title. A single application may seek approval of one or more telecommunications facilities.

Pursuant to § 248a(j)(1), the Procedures Order defines a project of "limited size and scope" as a facility that:

(a) consists of an attachment to an existing structure that does not increase the height or width of the existing structure by more than twenty feet; or (b) does not exceed 135 feet in height and does not include road building or other earth disturbance exceeding 100 square feet, other than a temporary road or earth disturbance associated with construction or installation activities.

Further, pursuant to Section (L) of the Procedures Order, regarding projects of "limited size and scope:"

Unless the Board determines that an application raises a substantial issue, it shall issue a final determination on an application within 45 days of its filing . . . .

Each of the communications facilities included as part of the proposed Project will consist of an attachment to an existing structure that does not increase the height or width of that structure by more than twenty feet and will involve only temporary earth disturbance associated with Project installation at the existing sites.<sup>3</sup> Therefore, all of the facilities qualify as facilities of "limited size and scope" as defined in the Board's Procedures Order governing the installation

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3. Joint Panel pf. at 14.

of wireless telecommunications facilities. The Procedures Order provides that the Board, in its review of facilities of "limited size and scope," conditionally waives all criteria under 30 V.S.A. § 248a(c)(1), with the exception of 10 V.S.A. § 6086(a)(8) (aesthetics, historic sites, rare and irreplaceable natural areas).

Based upon all of the above evidence, the petition does not raise a significant issue with respect to the relevant substantive criteria of 30 V.S.A. § 248a, the public interest is satisfied by the procedures authorized in 30 V.S.A. § 248a, and the proposed Project will promote the general good of the State.

#### **V. ORDER**

IT IS HEREBY ORDERED, ADJUDGED AND DECREED by the Public Service Board of the State of Vermont that the installation and operation of communications facilities at the locations specified in the above findings, by New Cingular Wireless PCS, LLC, d/b/a AT&T Mobility, in accordance with the evidence and plans submitted in this proceeding, will promote the general good of the State of Vermont in accordance with 30 V.S.A. § 248a(a), and a certificate of public good to that effect shall be issued in this matter.

Dated at Montpelier, Vermont, this 28<sup>th</sup> day May, 2010.

<u>s/James Volz</u>	)	
	)	PUBLIC SERVICE
	)	
<u>s/David C. Coen</u>	)	BOARD
	)	
	)	OF VERMONT
<u>s/John D. Burke</u>	)	

OFFICE OF THE CLERK

FILED: May 28, 2010

ATTEST: s/Susan M. Hudson  
Clerk of the Board

*NOTICE TO READERS: This decision is subject to revision of technical errors. Readers are requested to notify the Clerk of the Board (by e-mail, telephone, or in writing) of any apparent errors, in order that any necessary corrections may be made. (E-mail address: psb.clerk@state.vt.us)*

*Appeal of this decision to the Supreme Court of Vermont must be filed with the Clerk of the Board within thirty days. Appeal will not stay the effect of this Order, absent further Order by this Board or appropriate action by the Supreme Court of Vermont. Motions for reconsideration or stay, if any, must be filed with the Clerk of the Board within ten days of the date of this decision and order.*